

AS

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 96-123-E - ORDER NO. 96-288 ✓
APRIL 24, 1996

IN RE: Application of Duke Power Company) ORDER
for Authorization to Issue and Sell) APPROVING
Securities (Long-Term Debt Securities) APPLICATION
and Medium-Term Notes).)

On April 12, 1996, Duke Power Company (Company) filed an Application (Application) for authorization to issue and sell a maximum of (i) \$700,000,000 principal amount of its long-term debt securities and (ii) \$78,000,000 principal amount of First and Refunding Mortgage Bonds designated as Medium-Term Notes.

FINDINGS OF FACT

1. The Company is a corporation duly organized and existing under the laws of the State of North Carolina. It is duly authorized by its Articles of Incorporation to engage in the business of generating, transmitting, distributing and selling electric power and energy, and in the business of operating water supply systems, and is a public utility under the laws of the State of North Carolina and in its operations in that State is subject to the jurisdiction of the North Carolina Utilities Commission. It is duly domesticated in the State of South Carolina and is authorized to conduct and carry on business, and is conducting and carrying on the businesses heretofore mentioned

in this State. It is also a public utility under the laws of the State of South Carolina and in its operations in this State is subject to the jurisdiction of the Public Service Commission of South Carolina. It is a public utility under the Federal Power Act, and certain of its operations are subject to the jurisdiction of the Federal Energy Regulatory Commission.

2. The Company proposes to issue and sell its securities pursuant to its Application in this Docket in the following manner. The Company will issue and sell from time to time (i) a maximum of \$700,000,000 principal amount of its long-term debt securities (the Proposed Debt Securities), all or a portion of which may be First and Refunding Mortgage Bonds and any balance of which may be unsecured debt instruments and (ii) a maximum of \$78,000,000 principal amount of its First and Refunding Mortgage Bonds designated as Medium-Term Notes (the MTNs)(collectively, the Proposed Securities). The Company intends to sell the Proposed Securities during the effective period of the shelf Registration Statements which the Company has filed with the Securities and Exchange Commission in connection with the registration of such securities (collectively, the Registered Securities). The Registered Securities may be sold on the domestic market or in the international market and proceeds from such sales will be used for (a) the purchase or redemption of the Company's outstanding higher cost securities as hereinafter provided, (b) refunding maturing securities, or (c) financing the Company's ongoing construction (including the acquisition of nuclear fuel), including the

repayment of short-term debt incurred for those purposes.

THE PROPOSED DEBT SECURITIES (Long-Term Debt): The Company proposed to issue and sell the Proposed Debt Securities primarily as registered securities through a shelf Registration Statement filed with the Securities and Exchange Commission covering a total of \$1 billion principal amount of its First and Refunding Mortgage Bonds. Such amount includes the \$700,000,000 principal amount of First and Refunding Mortgage Bonds which are the subject of the Application, plus the \$300,000,000 remaining principal balance of First and Refunding Mortgage Bonds authorized by this Commission by Order dated October 20, 1993 in Docket No. 93-634-E, Order No. 93-975.

The Company proposes to enter into negotiations with, or request competitive proposals from, investment bankers or other financial institutions to act as agents, dealers, underwriters, or direct purchasers in connection with either the public or private offering of each issuance in accordance with the terms thereof. The Company will determine which sales method and financial institution(s) will provide the most favorable terms to the Company for any issuance and sale of the Proposed Debt Securities, which may be issued in fully registered or bearer form with coupons or a combination thereof, and with a maximum term of forty years.

When any of the Proposed Debt Securities are issued for refunding or refinancings, the Company proposes to execute the proposed transactions so that, over time, there will be no

material effect on the Company's capitalization with respect to the source of funds.

To the extent the Proposed Debt Securities are the Company's First and Refunding Mortgage Bonds, they will be created and issued under the Company's First and Refunding Mortgage dated as of December 1, 1927 to Chemical Bank, as successor Trustee to Morgan Guaranty Trust Company of New York, as heretofore supplemented and as to be further supplemented and amended by Supplemental Indentures to be executed in connection with their issuance. They will be subject to all of the provisions of the Mortgage, as supplemented, and by virtue of said Mortgage will constitute (together with the Company's outstanding First and Refunding Mortgage Bonds) a first lien on substantially all of the Company's fixed property and franchises.

THE MEDIUM-TERM NOTES: The Company proposes to issue and sell the MTNs as registered securities through a shelf Registration Statement filed with the Securities and Exchange Commission covering a total of \$250,000,000 principal amount of MTNs. Such amount includes the \$78,000,000 principal amount of MTNs, authorization for the issuance and sale of which is requested in the Application, plus the \$172,000,000 remaining principal balance of MTNs authorized by this Commission by Order dated October 20, 1993 in Docket No. 93-634-E, Order No. 93-975.

The Company's MTN Program provides benefits related to flexible and expedient market access. The MTN offering procedure allows quick response to investor interest in the bonds' form,

amount and maturity, giving the Company the opportunity to fund its needs at attractive rates relative to market conditions. As market conditions shift, the posting procedure would permit maturity and offered amounts to be adjusted accordingly to obtain advantageous rates.

The MTNs are First and Refunding Mortgage Bonds, and will be created and issued under the Company's First and Refunding Mortgage dated as of December 1, 1927, to Chemical Bank, as successor Trustee to Morgan Guaranty Trust Company of New York, as heretofore supplemented and as to be further supplemented and amended.

The maturity of the MTNs will not exceed thirty years, and such bonds will be substantially of the form and tenor as shown in the Supplemental Indenture executed in connection with their issuance. They will be subject to all of the provisions of the Mortgage referred to above, as supplemented, and by virtue of said Mortgage will constitute (together with the Company's outstanding First and Refunding Mortgage Bonds) a first lien on substantially all of the Company's fixed property and franchises.

3. No fee for services will be paid (other than attorneys, accountants, mortgage trustee and fees for similar technical services) in connection with the negotiation or consummation of the issuance and sale of any of the securities authorized herein, nor for services in securing underwriters, agents, dealers or purchasers of such securities (other than fees negotiated with such persons).

4. When the net proceeds from the sales of any of the Proposed Securities will be applied and used by the Company to purchase or redeem certain of the Company's outstanding unmatured securities, such sales will be made from time to time when market conditions permit the sales on terms which would result in a lower cost of money to the Company, as set forth in the Application. The net proceeds of any of the Proposed Securities may also be applied and used by the Company to refund maturing securities, including the repayment of short-term debt incurred for that purpose.

5. The net proceeds from the issuance and sale of the securities authorized herein will be applied and used by the Company to purchase or redeem higher cost securities, to refund maturing securities, or for its ongoing construction (including the acquisition of nuclear fuel), including the repayment of short-term debt obligations incurred for those purposes.

CONCLUSIONS

Upon review and study of the verified Application, its supporting data and other information in the Commission's files, the Commission is of the opinion, and so finds, that the Company is a public utility subject to the jurisdiction of this Commission with respect to its rates, service and securities issues and that the issuance and sale of the Proposed Debt Securities and MTNs as set forth in the Company's Application are:

- a) For a lawful object within the corporate purposes of the Company;
- b) Compatible with the public interest;

- c) Necessary and appropriate for and consistent with the proper performance by the Company of its service to the public and will not impair its ability to perform that service; and
- d) Reasonably necessary and appropriate for such purposes.

IT IS, THEREFORE, ORDERED: That Duke Power Company be, and it is hereby, authorized, empowered, and permitted, upon the terms and conditions set forth in its Application:

1. To issue and sell from time to time a maximum of \$700,000,000 principal amount of its long-term debt securities;

2. To issue and sell from time to time a maximum of \$78,000,000 principal amount of its First and Refunding Mortgage Bonds designated as Medium-Term Notes; and

3. To use the net proceeds of such sales to redeem higher cost securities, to refund maturing securities, or for its ongoing construction (including the acquisition of nuclear fuel), including the repayment of short-term debt obligations incurred for those purposes.

IT IS FURTHER ORDERED, that:

1. The Company report to the Commission within thirty (30) days after the consummation of sale of the Proposed Debt Securities or MTNs pursuant hereto (including the amount thereof, interest rate borne by them, the expenses incurred therewith and the specific use(s) of the proceeds) and within such time it shall file with the Commission a copy of the agreements executed in connection therewith in the final form in which they are executed.

2. Approval of this Application does not bind the Commission as to the ratemaking treatment of this issuance.

3. This Order shall not, in any way, affect or limit the right, duty or jurisdiction of the Commission to further investigate and order revisions, modifications, or changes with respect to any provision of this Order in accordance with the law.

4. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)